

AUG 10 2009

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
MUR 6055) CASE CLOSURE UNDER THE
DAN SEALS FOR CONGRESS AND) ENFORCEMENT PRIORITY
HARRY PASCAL, AS TREASURER) SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6055 as a low-rated matter

The complainant in this matter, Daniel Bryant, claims that Dan Seals for Congress and Harry Pascal, in his official capacity as treasurer ("the Committee") accepted a \$1,000 contribution, which it reported as having been made by Robert M. Schraye, on May 7, 2008 in its 2008 July Quarterly Report. However, according to an obituary notice included with the complaint, Mr. Schraye had passed away on February 21, 2008, more than two months before the contribution was made. The complainant therefore concludes that the Committee knowingly accepted a contribution, ostensibly from Mr. Schraye, that was, in fact, made by another, in violation of 2 U.S.C. § 441f, and also inaccurately reported that Mr. Schraye had made the contribution, in violation of 2 U.S.C. § 434(b).

Both the Committee and Mrs. Schraye responded to the complaint. The Committee explained that Mrs. Schraye had held the bank account on which the check was drawn jointly

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1 with her late husband, Robert Schroyer In April 2008, after her husband's death, the
2 Committee stated that Mrs Schroyer instructed her bank to issue an online check for \$1,000
3 to the Committee The Committee provided a copy of the check, on which Mr Schroyer's
4 name alone is printed at the top, and includes documentation from the bank that the account
5 was owned jointly by the Schroyers The check does not bear a signature, according to the
6 Committee, because it was issued through an online banking service. (In fact, there is no line
7 provided on the check for a signature)

8 The Committee acknowledged that it erroneously attributed the check to Mr. Schroyer
9 instead of Mrs Schroyer, because it bore his name In addition, because the Committee had
10 Mr Schroyer's occupation and employment information on file from previous contributions
11 made by him, it did not send a follow-up letter Thus, the Committee maintained that it
12 reasonably, although mistakenly, attributed the contribution to Mr. Schroyer After being
13 informed of the complaint, however, the Committee stated that it contacted Mrs. Schroyer,
14 learned that she was the source of the May 7, 2008 contribution, and filed an amended 2008
15 July Quarterly showing that Mrs Schroyer, not Mr Schroyer, had made the contribution.
16 Mrs Schroyer's response also confirmed the Committee's statement that the contribution was
17 made by her from a joint account owned by herself and her late husband

18 It appears that Mrs Schroyer may have made an inadvertent mistake in the way she
19 instructed her bank to make the online contribution to the Committee The Committee
20 appears to have quickly corrected its financial disclosure report after learning the true identity
21 of the contributor (i.e., Mrs Schroyer) Thus, any potential reporting violation under
22 2 U S C § 434(b), under the circumstances in this case, would be technical in nature.
23 Therefore, in furtherance of the Commission's priorities and resources, and relative to

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other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. See *Heckler v Chaney*, 470 U S 821 (1985).


RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6055, close the file, and approve the appropriate letters

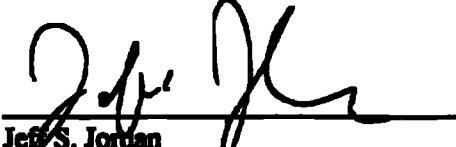
Thomasenia P Duncan
General Counsel

01/17/09
Date

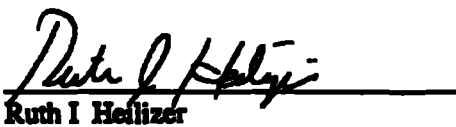
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